

3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169-5996
Facsimile (702) 949-8321
Telephone (702) 949-8320

Robert M. Charles, Jr. NV State Bar No. 006593
Email: rcharles@lrlaw.com
John Hinderaker AZ State Bar No. 018024
Email: jhinderaker@lrlaw.com
Marvin Ruth NV State Bar No. 10979
Email: mruth@lrlaw.com

Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

Debtor.

Case No. BK-S-06-10725-LBR

Chapter 11

**NOTICE OF HEARING RE
OMNIBUS OBJECTION OF USACM
TRUST TO PROOFS OF CLAIM
BASED UPON INVESTMENT IN
THE HFAH ASYLUM, LLC LOAN**

**Date of Hearing: September 30, 2011
Time of Hearing: 9:30 a.m.
Estimated Time for hearing: 10 min.**

**THE USACM LIQUIDATING TRUST IS OBJECTING IN PART TO THE
CLAIM THAT YOU FILED. TO THE EXTENT YOUR CLAIM IS BASED UPON
AN INVESTMENT IN THE HFAH ASYLUM LOAN, THE USACM TRUST
SEEKS TO DISALLOW 70% OF YOUR CLAIM AND ALLOW 30% OF YOUR
CLAIM. THE USACM TRUST CONTENDS THAT YOU DO NOT HAVE A
COMPLETELY VALID CLAIM BASED UPON YOUR INVESTMENT IN THIS
LOAN BECAUSE YOU MITIGATED YOUR DAMAGES OR HAD THE
OPPORTUNITY TO MITIGATE YOUR DAMAGES AND DID NOT TAKE IT.
THIS OBJECTION WILL NOT IMPACT YOUR CLAIM TO THE EXTENT IT IS
BASED UPON AN INVESTMENT IN A DIFFERENT LOAN.**

1 **PLEASE DO NOT CONTACT THE CLERK OF THE BANKRUPTCY**
2 **COURT TO DISCUSS THE MERITS OF YOUR CLAIM. QUESTIONS**
3 **REGARDING THE AMOUNT OF A CLAIM OR THE FILING OF A CLAIM**
4 **SHOULD BE DIRECTED TO BRANT FYLLING AT SIERRA GROUP**
5 **CONSULTING, LLC (602-424-7009) OR TO UNDERSIGNED COUNSEL, JOHN**
6 **HINDERAKER (520-629-4430).**

7 **NOTICE IS HEREBY GIVEN** that the USACM Liquidating Trust, by and
8 through its counsel, has filed its Omnibus Objections to Proofs of Claim Based Upon
9 Investment in the HFAH Asylum, LLC Loan (with Certificate of Service) (the
10 “Objection”). Your Proof of Claim number and other information regarding your claim is
11 provided in **Exhibit A**, attached to the Objection. The USACM Liquidating Trust has
12 requested that this Court enter an order, pursuant to section 502 of title 11 of the United
13 States Code (the “Bankruptcy Code”) and Rule 3007 of the Federal Rules of Bankruptcy
14 Procedure (the “Bankruptcy Rules”), disallowing 70% and allowing 30% of your Proof of
15 Claim to the extent it is based upon an investment in the HFAH Asylum, LLC Loan. The
16 Objection will not impact your Claim to the extent it is based upon an investment in a
17 different loan.

18 **NOTICE IS FURTHER GIVEN** that the hearing on the Objection will be held
19 before the Honorable Linda B. Riegle, U.S. Bankruptcy Court Judge in the Foley Federal
20 Building, 300 Las Vegas Blvd. South, 3rd Floor, Courtroom No. 1, Las Vegas, Nevada on
21 **September 30, 2011, at the hour of 9:30 a.m.**

22 **NOTICE IS FURTHER GIVEN THAT THE HEARING SET ON**
23 **SEPTEMBER 30, 2011, WILL BE HELD FOR THE PURPOSE OF STATUS**
24 **CHECKS AND SCHEDULING EVIDENTIARY HEARINGS ONLY. NO**
25 **ARGUMENTS WILL BE HEARD ON THAT DATE.**
26

1 **NOTICE IS FURTHER GIVEN** that pursuant to Local Rule 9014(d), any
2 response to the objection must be filed and service must be completed no later than
3 **fourteen (14) days** preceding the hearing date. The opposition must set forth all relevant
4 facts and any relevant legal authority.

5 If you object to the relief requested, you *must* file a **WRITTEN** response to this
6 pleading with the Court. You *must* also serve your written response on the person who
7 sent you this notice.

8 If you do not file a written response with the Court, or if you do not serve your
9 written response on the person who sent you this notice, then:

- 10 • The Court may *refuse to allow you to speak* at the scheduled hearing; and
11 • The Court may *rule against you* and sustain the objection without formally
12 calling the matter at the hearing.

13 Dated: August 7, 2011

14 LEWIS AND ROCA LLP

15 By s/John Hinderaker (AZ 18024)

16 Robert M. Charles, Jr., NV 6593

17 John Hinderaker, AZ 18024 (*pro hac vice*)

18 Marvin Ruth, NV 10979

19 3993 Howard Hughes Parkway, Suite 600

20 Las Vegas, Nevada 89169

21 E-mail: JHinderaker@lrlaw.com

22 Attorneys for the USACM Liquidating Trust

23 Copy of the foregoing and pertinent
24 portion of Exhibits mailed by first
25 class postage prepaid U.S. Mail on
26 August 7, 2011 to all parties listed on
 Exhibit A attached.

 LEWIS AND ROCA LLP

s/ Matt Burns
 Matt Burns